

# South Carolina Law Review

---

Volume 25 | Issue 4

Article 12

---

11-1973

## South Carolina Legislative Review

Paul E. Von Nessen

Follow this and additional works at: <https://scholarcommons.sc.edu/sclr>



Part of the [Law Commons](#)

---

### Recommended Citation

Von Nessen, Paul E. (1973) "South Carolina Legislative Review," *South Carolina Law Review*. Vol. 25 : Iss. 4 , Article 12.

Available at: <https://scholarcommons.sc.edu/sclr/vol25/iss4/12>

This Article is brought to you by the Law Reviews and Journals at Scholar Commons. It has been accepted for inclusion in South Carolina Law Review by an authorized editor of Scholar Commons. For more information, please contact [dillarda@mailbox.sc.edu](mailto:dillarda@mailbox.sc.edu).

## SOUTH CAROLINA LEGISLATIVE REVIEW

### I. INTRODUCTION

The First Session of the one hundredth General Assembly convened January 9, 1973, and in the ensuing six months enacted over eight hundred pieces of legislation. Despite the achievements of this session, several important measures failed to gain passage. Although liquor law reform,<sup>1</sup> judicial restructure,<sup>2</sup> and youth rights legislation<sup>3</sup> were given approval, the 1973 General Assembly failed to pass the Uniform Consumer Credit Code,<sup>4</sup> ratify the equal rights amendment to the United States Constitution,<sup>5</sup> or implement a "no-fault" plan for automobile liability insurance.<sup>6</sup>

In addition to the many celebrated issues considered this year, the General Assembly also dealt with numerous less publicized measures of significance to the legal profession in such areas as criminal law, taxation, and environmental law. The issues debated which are of importance to the legal community are the subject of this article.

### II. LIQUOR REGULATION

Perhaps the most controversial piece of legislation enacted by the General Assembly in 1973 was the ratification of an amendment to the South Carolina Constitution to allow the sale of "alcoholic liquors and beverages in sealed containers of two ounces or less."<sup>7</sup> The "minibottle" amendment, approved by statewide referendum in November 1972, was implemented March 28, 1973. Modification of section 4-82 of the 1962 Code<sup>8</sup> followed shortly, legalizing martinis and other wine-liquor mixed drinks by allowing the sale of wine with the minibottle.<sup>9</sup>

Problems dealing with regulation of the new liquor provisions were for the most part dealt with in 1972. Prior to submitting the

---

1. No. 122, [1973] S.C. Acts & Jt. Res. 146.

2. No. 132, [1973] S.C. Acts & Jt. Res. 161.

3. Ratification No. 260 of 1973.

4. Senate Bill No. 340, 100th Gen. Assem. of S.C., 1st Sess. (1973).

5. House Bill No. 1020, 100th Gen. Assem. of S.C., 1st Sess. (1973).

6. Senate Bill No. 371, 100th Gen. Assem. of S.C., 1st Sess. (1973).

7. No. 122, [1973] S.C. Acts & Jt. Res. 146.

8. S.C. CODE ANN. § 4-82 (1962).

9. No. 258, [1973] S.C. Acts & Jt. Res. 300.

constitutional amendment to the voters, the legislature enacted a measure to govern sale of the minibottle upon approval of the amendment.<sup>10</sup> This statute allowed minibottle sales between ten a.m. and two a.m. (Sunday sales excepted) in approved establishments which have Class A restaurant licenses and can seat at least twenty-five persons simultaneously at tables for service of meals.<sup>11</sup>

In addition to the obvious recreational and tourist benefits which the new liquor regulations should provide, the state will benefit from a twenty-five cent per container tax. One fourth of the revenues collected from the per bottle tax will be returned to the counties for treatment of alcoholics and drug addicts.<sup>12</sup> To aid enforcement of the tax and to realize maximum revenues from the sale of the minibottles, a penalty of one thousand dollars will be imposed for tax avoidance violations.<sup>13</sup>

### III. CIVIL RIGHTS

The civil rights legislation considered by the General Assembly in 1973 dealt primarily with the issues of sex discrimination, youth rights, and voting privileges. Only in the area of youth rights was significant legislation enacted.<sup>14</sup> However, the potential impact of the measures which were not passed in this session warrant their mention.

One hotly debated issue considered in 1973 was the proposed ratification of the equal rights amendment to the United States Constitution.<sup>15</sup> This amendment provides that "Equality of rights under the law shall not be denied or abridged by the United States or any State on account of sex."<sup>16</sup> In delaying action upon this amendment until next year, the South Carolina House of Representatives indicated that the full consequences of such an

---

10. No. 1063, [1972] S.C. Acts & Jt. Res. 2213.

11. *Id.* at 2215.

12. No. 213, [1973] S.C. Acts & Jt. Res. 242. The South Carolina Tax Commission reports that the revenues from the per bottle tax totaled only \$2,249,886 for the first five months of minibottle sales. This total is significantly less than the \$9,000,000 per year estimated by proponents of the amendment during its consideration. This low revenue has fostered speculation that the per bottle tax should be reduced to increase the total revenue through greater sales volume.

13. No. 258, [1973] S.C. Acts & Jt. Res. 301.

14. Ratification No. 260 of 1973.

15. House Bill No. 1020, 100th Gen. Assem. of S.C., 1st Sess. (1973).

16. *Id.*

amendment would become more comprehensible after a winter's ponderance. The response to this delay was a bill prohibiting sex discrimination by an employer in hiring practices, pay scales, administration of benefits, or promotions.<sup>17</sup> This bill, obviously not so far-reaching as the proposed constitutional amendment, was not enacted despite its timeliness.

The General Assembly, however, did pass a proposed constitutional amendment on youth rights,<sup>18</sup> and it will be submitted for approval of the electorate in the next general election. The amendment will provide that persons between eighteen and twenty-one years of age be endowed with full legal rights and responsibilities.<sup>19</sup> However, the legislature will retain the right to regulate liquor for persons under twenty-one years of age.<sup>20</sup> The General Assembly also enacted legislation allowing absentee voting by spouses of students,<sup>21</sup> primarily benefiting those in the eighteen to twenty-one year old group.

Another bill of consequence in the civil rights area was a proposal to enfranchise felons.<sup>22</sup> This proposal provided that persons convicted of felonies "shall be disqualified from voting, unless such disqualification shall be removed by pardon or upon completion of the imposed sentence . . . ."<sup>23</sup> This bill was retained in committee, and its prospects for passage are not particularly strong.

#### IV. NO-FAULT INSURANCE

Although the legislature debated several bills in the fields of workmen's compensation and unemployment insurance, the most significant insurance issue considered this year was no-fault automobile liability insurance. Although four bills on this subject were proposed,<sup>24</sup> only one, the bill introduced by Senator J. Ralph Gasque, made measurable progress.

The Gasque insurance bill, entitled the South Carolina Auto-

---

17. House Bill No. 1652, 100th Gen. Assem. of S.C., 1st Sess. (1973).

18. Ratification No. 260 of 1973.

19. *Id.*

20. *Id.*

21. No. 65, [1973] S.C. Acts & Jt. Res. 73.

22. House Bill No. 1068, 100th Gen. Assem. of S.C., 1st Sess. (1973).

23. *Id.*

24. House Bill No. 1265, 100th Gen. Assem. of S.C., 1st Sess. (1973); House Bill No. 1266, 100th Gen. Assem. of S.C., 1st Sess. (1973); House Bill No. 1904, 100th Gen. Assem. of S.C., 1st Sess. (1973); Senate Bill No. 371, 100th Gen. Assem. of S.C., 1st Sess. (1973).

mobile Reparation Reform Act of 1973,<sup>25</sup> provides for a minimum insurance coverage for hospital, medical, and disability benefits up to an amount of two thousand five hundred dollars per person for accident-related expenses arising within three years of the mishap.<sup>26</sup> Additionally, the insurer would have no right of subrogation because of the fault of another person.<sup>27</sup>

As proposed, insurance policies would cover authorized occupants of the insured vehicle, pedestrians injured by the insured vehicle, and the insured party as either a pedestrian or occupant of an uninsured vehicle.<sup>28</sup> These provisions, along with the establishment of an arbitration panel to determine awards for property damage,<sup>29</sup> would tend to eliminate litigation on the part of an insured party whose damages do not exceed his policy limits (maximum coverage would not be regulated<sup>30</sup>). Therefore, litigation, although not directly limited by the bill, might become a remedy primarily used by the under-insured and uninsured.

To reduce the number of uninsured motorists, the reparation reform legislation provides that no vehicle without proper security can have a certificate of registration.<sup>31</sup> "Security" is an insurance policy with minimum legal coverage (up to two thousand five hundred dollars) or other fixed assets approved by the chief highway commissioner and which are adequate and do in fact provide the benefits required by this bill.<sup>32</sup>

Another interesting feature of the proposed plan deals with insurance for persons rejected by private insurers. Under the provisions of the bill, the state would establish an insurance fund authorized to sell insurance to anyone who has unsuccessfully attempted to obtain insurance from at least two private insurers or anyone whose policy has been cancelled for reasons other than non-payment.<sup>33</sup> To encourage insurers to remove good risk drivers from the fund, the creation of the fund would be financed by a bond, the principal and interest of which would be paid by a tax

---

25. Senate Bill No. 371, 100th Gen. Assem. of S.C., 1st Sess. (1973).

26. *Id.*, art. II, § 1. Such expenses, including medical, surgical, X-ray, dental, ambulance, hospital, prosthetic, and funeral expenses as well as loss of income, would be paid without regard to fault of the insured or beneficiary.

27. *Id.*, art. II, § 2.

28. *Id.*, art. II, § 5 (c).

29. *Id.*, art. IV, § 1.

30. *Id.*, art. II, § 4.

31. *Id.*, art. II, § 11.

32. *Id.*, art. II, § 10.

33. *Id.*, art. III A, §§ 1, 6.

upon insurance companies operating in the state.<sup>34</sup> This provision and the ultimate decrease in litigation which should accompany enactment of this legislation has raised significant opposition to this bill and may delay its approval.<sup>35</sup>

## V. CONSTITUTIONAL REVISION

The continuing effort to revise the South Carolina Constitution of 1895 progressed significantly in 1973. After the electorate's approval in 1972 of the amendments relating to the judicial and executive branches of government, the General Assembly promptly enacted both amendments. However, the proposed amendment concerning the legislative branch met with difficulties, and the legislature postponed action for further consideration.

The executive amendment,<sup>36</sup> which will have only minimal effects on the legal community, was ratified February 21, 1973. Provisions of the amendment clarified the procedure for accession to the offices of governor and lieutenant governor on the occurrence of a vacancy.<sup>37</sup> It also established a method for transfer of authority in the event that the governor is unable to discharge the duties of his office.<sup>38</sup> One section of the executive amendment increased from three days to five the period of time in which a bill, passed by the General Assembly and presented to the governor, would become law without executive approval.<sup>39</sup> Another section eliminated from the governor's powers any authorization for action or proceedings against the General Assembly or supreme court.<sup>40</sup>

The revision of the judicial branch, unlike that of the executive, was necessitated by the growing inadequacies of the system established by the 1895 constitution. Although the judicial amendment<sup>41</sup> updated terminology and deleted provisions inappropriate for constitutional inclusion, the primary purpose of the

---

34. *Id.*, art. III C, § 1.

35. Objections to the Gasque bill, patterned after the Maryland insurance plan, center primarily around the proposed state insurance fund, considered by the insurance industry to be an unnecessary entrance of the state into the insurance field.

36. No. 46, [1973] S.C. Acts & Jt. Res. 48.

37. *Id.* at 50.

38. *Id.*

39. *Id.* at 52.

40. *Id.* at 51.

41. No. 132, [1973] S.C. Acts & Jt. Res. 161.

amendment was to enable the judiciary of South Carolina to meet the ever-increasing demand upon the state's court systems. To accomplish this objective, the judicial amendment made two important changes which should help to alleviate the inadequacies of the past.

The more important of the two changes is the establishment of a unified judicial system with the chief justice of the supreme court as administrative head.<sup>42</sup> The powers assigned to the chief justice in this capacity enable him to "set the terms of any court and . . . assign any judge to sit in any court within the unified judicial system."<sup>43</sup> The advantages of this centralized administration in dealing with equalization of work load will hopefully lead to a more efficient use of the available judges. Another advantage of the new system is the supreme court's increased ability to provide uniform rules of administration, practice, and procedure.<sup>44</sup>

The second major change produced by the judicial amendment should ease the judicial work load by providing additional circuit judges. Under the new provisions, "[t]he General Assembly may by law provide for additional circuit judges, to be assigned by the Chief Justice."<sup>45</sup> These additional judges, unlike those selected to serve designated circuits, will have no residency requirement for any county or circuit.<sup>46</sup> The amendment further provides that "[j]udges of the Circuit Court shall interchange circuits and all judges shall be systematically rotated throughout the state as directed by the Chief Justice."<sup>47</sup> Attempting to alleviate court strain, the amendment lengthens the term for circuit judge from four years to six.<sup>48</sup>

In addition to the primary changes, the judicial amendment provides for selection and removal of justices<sup>49</sup> and elimination of constitutional status for courts other than the supreme court and circuit courts. Ironically, the deletion from the constitution of the offices of clerk of court, solicitor, coroner, and sheriff, a change originally considered inconsequential, met with such opposition that a further amendment returning these offices to constitu-

---

42. *Id.* at 162.

43. *Id.* at 163.

44. *Id.*

45. *Id.* at 164.

46. *Id.*

47. *Id.*

48. *Id.*

49. *Id.* at 165.

tional status is to be submitted to the electorate in the next general election.<sup>50</sup>

Despite the misleading emphasis placed upon minor change brought about by the judicial amendment, the most significant aspect of the revision was the progress made toward a more efficient judicial system for South Carolina. To assure that continued revision will be made, the General Assembly created a committee to study the effects of the changes made and to make recommendations for further reform.<sup>51</sup> There is little doubt, however, that the judicial amendment will greatly enhance the efficacy of the state court system.

The proposed legislative amendment<sup>52</sup> was primarily intended to bring the state constitution into conformity with the "one man, one vote" principle set forth in *Reynolds v. Sims*.<sup>53</sup> However, it reflects the structure of the General Assembly as it has evolved through post-1964 litigation. The amendment provides for a Senate composed of no more than forty-six members elected from "as many single and multimember districts as the General Assembly shall determine."<sup>54</sup> It establishes a House consisting of one hundred and twenty-four members apportioned among election districts according to population, provided that each county shall have at least one Representative to the House.<sup>55</sup>

This proposed amendment made little progress in 1973 primarily because of the probability that an assembly structured under its provisions would face numerous challenges on federal constitutional grounds. This became apparent when the structure of the 1973 General Assembly, organized in substantially the same manner as would be required by the amendment, was challenged in two areas. The courts did not uphold the first objection, based upon dilution of minority strength in multimember Senate districts.<sup>56</sup> The second challenge was aimed at the disparate representation caused by the provision giving at least one House representative to each county. In defense of this provision, the

---

50. Ratification No. 165 of 1973.

51. Senate Bill No. 106, 100th Gen. Assem. of S.C., 1st Sess. (1973).

52. Senate Bill No. 433, 100th Gen. Assem. of S.C., 1st Sess. (1973).

53. 377 U.S. 533 (1964).

54. Senate Bill No. 433, 100th Gen. Assem. of S.C., 1st Sess. (1973).

55. *Id.*

56. *Twiggs v. West*, Nos. 71-1106, 71-1123, 71-1211 (D.S.C. May 23, 1973), *aff'd sub nom. Powell v. West*, No. 72-452 (Sup. Ct. June 25, 1973). *But see Harper v. Richardson*, Civil No. 1607-72 (D.D.C. July 19, 1973).



state contended that its departure from numerical equality was justified by independent county representation to maintain the integrity of political subdivisions. Although the federal district court had upheld the apportionment plan on the basis of this preservation of county lines, the United States Supreme Court summarily reversed the district court opinion.<sup>57</sup> Not only did this decision raise serious questions about the legislative amendment, it also forced the General Assembly into special session in late 1973 to reapportion the House of Representatives.

## VI. UNIFORM CONSUMER CREDIT CODE

Of significance in the field of commercial law is the pending passage of the Uniform Consumer Credit Code (U.C.C.C.).<sup>58</sup> Although enactment of the U.C.C.C. was delayed until 1974 at the earliest, its provisions are so wide-ranging that they merit analysis prior to passage.

The purposes of the Uniform Consumer Credit Code are to clarify and modernize the law governing credit sales and loans, to further consumer understanding of credit terms, and to foster competition among consumer credit suppliers through encouragement of fair credit practices.<sup>59</sup> To accomplish these objectives, the U.C.C.C. provides for ceilings on interest rates for loans or installment sales, limitation of creditors' remedies, expansion of debtors' remedies, elimination of certain allegedly unconscionable credit practices, establishment of penalties, both civil and criminal, to enforce provisions of the Code, and establishment of an office of administrator to coordinate enforcement.

The U.C.C.C. regulates loans and installment sales of less than twenty-five thousand dollars when made to consumers for personal, family, household, or agricultural purposes by persons who normally deal in finance sales or loans.<sup>60</sup> If the Code is applicable to a sale, a ceiling for maximum service credit charge is the higher of (a) annual rates on the unpaid balance upon the follow-

---

57. *Stevenson v. West*, No. 72-205 (Sup. Ct. June 25, 1973), *rev'g* No. 72-45 (D.S.C. April 7, 1972). The Supreme Court's order, which merely cites *Swann v. Adams*, 384 U.S. 440 (1967) and *Reynolds v. Sims*, 377 U.S. 533 (1964), indicates that the state's contention was of little merit.

58. Senate Bill No. 340, 100th Gen. Assem. of S.C., 1st Sess. (1973).

59. *Id.* § 1.102 (2).

60. *Id.* §§ 2.104, 3.104.

ing scale: 36% on the first three hundred dollars; 21% on the next seven hundred dollars; 15% on all over one thousand dollars, or (b) 18% of the unpaid balance.<sup>61</sup> Similarly, it limits loan interest rates to eighteen percent per year or one and one half percent per month.<sup>62</sup> It provides limitations on miscellaneous charges and requires clear disclosure of the annual percentage rates.<sup>63</sup> The U.C.C.C. will curtail home solicitation sales,<sup>64</sup> balloon payments,<sup>65</sup> use of cross collateral security arrangements,<sup>66</sup> and excessive attorneys' fees.<sup>67</sup> In addition, it will eliminate assignment of earnings,<sup>68</sup> confession of judgments by third parties,<sup>69</sup> and referral sales<sup>70</sup> and more strictly regulate security practices<sup>71</sup> and the holder in due course doctrine.<sup>72</sup>

The proposed Code will also limit creditors' remedies. It will eliminate pre-judgment garnishment of wages<sup>73</sup> and deficiency judgments on repossession arising from transactions of under one thousand dollars.<sup>74</sup> Similarly, the Code prohibits repossession of the commodity when an action is brought against a debtor for an amount due.<sup>75</sup>

To assure conformity with its provisions, the U.C.C.C. expands debtors' remedies to include civil action for non-compliance on the part of a creditor.<sup>76</sup> Also, the proposed Code sets criminal penalties for willful disobedience<sup>77</sup> and establishes an office to administer enforcement.<sup>78</sup> Enactment of the U.C.C.C. should be of great benefit to the consumers of the state, and its implementation will no doubt aid the development of sound and fair consumer practices in South Carolina.

---

61. *Id.* § 2.201.

62. *Id.* § 3.201.

63. *Id.* §§ 2.304, 3.304.

64. *Id.* § 2.502.

65. *Id.* §§ 2.405, 3.402.

66. *Id.* § 2.408.

67. *Id.* §§ 2.413, 3.404.

68. *Id.* §§ 2.410, 2.403.

69. *Id.* § 2.415.

70. *Id.* § 2.411.

71. *Id.* § 2.407.

72. *Id.* § 2.404.

73. *Id.* § 5.104.

74. *Id.* § 5.103.

75. *Id.* § 5.103(6).

76. *Id.* § 5.203.

77. *Id.* § 5.301.

78. *Id.* § 6.103.

## VII. TAXATION

Two of the statutes passed by the General Assembly concerning income tax were of significance, one dealing with prisoners of war and the other with care of the disabled. The first, an amendment to section 65-225.1 of the 1962 Code<sup>79</sup> allows exclusion of income for prisoners of war and men missing in action.<sup>80</sup> This exclusion brings South Carolina income tax law in line with similar provisions of the Internal Revenue Code.<sup>81</sup> The second change allows deductions for the cost of renovation of a facility to permit effective use of it by handicapped persons.<sup>82</sup>

The General Assembly increased the homestead exemption from five thousand dollars to ten thousand dollars and broadened its applicability to include the permanently disabled.<sup>83</sup> Further, it lifted the one-acre limit on the dwelling place<sup>84</sup> and modified the definition of "dwelling place" to include estates held in fee simple, life estates created by will, or life estates in existence prior to December 31, 1971.<sup>85</sup>

Another important change involved the Unemployment Security Law. The new provision increased the weekly benefit limit for an insured worker to sixty-six percent of the statewide average weekly wage.<sup>86</sup> To provide funds for the increase, employer contribution rates are to be increased, effective January 1, 1974.

## VIII. CRIMINAL LAW

The greatest volume of significant legislation considered by the 1973 General Assembly was in the area of criminal law. Although the matters accorded the greatest attention dealt with reestablishment of capital punishment and implementation of gun control, less heralded bills concerning criminal law codification and procedural reforms were certain to have an influence upon the criminal system of the state.

The 1973 legislature considered but failed to enact a bill

---

79. S.C. CODE ANN. § 65-225.1 (1962).

80. No. 93, [1973] S.C. Acts & Jt. Res. 105.

81. INT. REV. CODE OF 1954 §§ 112, 692.

82. No. 174, [1973] S.C. Acts & Jt. Res. 206.

83. No. 215, [1973] S.C. Acts & Jt. Res. 244.

84. *Id.* at 245.

85. No. 335, [1973] S.C. Acts & Jt. Res. 412.

86. No. 336, [1973] S.C. Acts & Jt. Res. 412.

reestablishing capital punishment.<sup>87</sup> The bill, a result of the Supreme Court case of *Furman v. Georgia*,<sup>88</sup> sought to remedy the constitutional inadequacies of the prior South Carolina provision, which left imposition of the death penalty to the discretion of the jury. The proposed legislation, which would have eliminated the discretionary standard, stated: "Whoever is guilty of murder shall suffer the penalty of death."<sup>89</sup> It would apparently conform to the standard of non-discretion in imposition of the death penalty as espoused by *Furman*. To reduce the number of violent crimes perpetrated in the state, the legislature considered several bills dealing with the control of handguns. It passed an act eliminating the sale of the "Saturday night special"<sup>90</sup> but did not pass several other proposals concerning gun management. One such measure, preventative in nature, provided for a mandatory application procedure for purchasing handguns, including approval of the application by the South Carolina Law Enforcement Division and a fifteen-day waiting period to allow for such approvals.<sup>91</sup> Another unsuccessful bill provided for increased sentences for certain crimes when the perpetrator carried a firearm.<sup>92</sup>

Legislation concerning drug control was also considered by the General Assembly in 1973. In this vein was the enactment of legislation providing for the forfeiture of certain vehicles used in illegal drug traffic. This act, which provides for protection of innocent owners and lienholders, applies only to vehicles used to transport certain minimum quantities of marijuana, hashish, opium, heroin, morphine, cocaine or L.S.D.<sup>93</sup> In addition, legislators introduced several bills to increase the penalties for drug offenses, but these measures failed to advance.<sup>94</sup>

Numerous procedural changes were passed by the General Assembly in 1973. One modification increased the permissible time for making appeals from magistrate, recorders, or municipal courts from five days to ten.<sup>95</sup> Another provided that all records

---

87. Senate Bill No. 270, 100th Gen. Assem. of S.C., 1st Sess. (1973).

88. 408 U.S. 238 (1972).

89. Senate Bill No. 270, 100th Gen. Assem. of S.C., 1st Sess. (1973).

90. No. 419, [1973] S.C. Acts & Jt. Res. 733.

91. Senate Bill No. 242, 100th Gen. Assem. of S.C., 1st Sess. (1973).

92. Senate Bill No. 312, 100th Gen. Assem. of S.C., 1st Sess. (1973).

93. No. 346, [1973] S.C. Acts & Jt. Res. 429.

94. House Bill No. 1540, 100th Gen. Assem. of S.C., 1st Sess. (1973); House Bill No. 1597, 100th Gen. Assem. of S.C., 1st Sess. (1973); House Bill No. 1865, 100th Gen. Assem. of S.C., 1st Sess. (1973); House Bill No. 1866, 100th Gen. Assem. of S.C., 1st Sess. (1973).

95. No. 137, [1973] S.C. Acts & Jt. Res. 171.

of a charge of a criminal offense be destroyed if such charge is dismissed or if the person charged is found to be innocent.<sup>96</sup> Other changes permitted the crediting of pretrial detention time against a prison sentence<sup>97</sup> and payment of a fine in installments by an indigent.<sup>98</sup>

The 1973 General Assembly did not act upon the proposed "Criminal Code of South Carolina."<sup>99</sup> This codification, along with a similar one of the state's criminal procedure which will be introduced in 1974, was designed to organize and update the criminal laws and processes of South Carolina. Neither measure should be expected to pass without considerable legislative study, and passage may come as late as 1975.

### IX. ENVIRONMENTAL LAW

The growing recognition of the need to protect South Carolina's natural environment led the General Assembly to consider several proposals concerned with limiting the ecological effects of industrial development. Of primary importance were measures to establish a nuclear advisory council, to regulate mining within the state, to provide for management of the coastal region, and to consolidate the Board of Health and the Pollution Control Authority.

In response to the growing nuclear power industry of the state, the legislature established a nuclear advisory council to assure and promote a safe nuclear environment.<sup>100</sup> In furtherance of this objective, the Council's duties consist of evaluating the effects of nuclear radiation on the environment, ensuring that the government of the state remains aware of developments in the nuclear field, and making recommendations to the General Assembly with regard to such matters.

Another act passed in 1973 seeks to regulate the mining industry in South Carolina.<sup>101</sup> It was enacted to protect and restore usefulness, productivity, and scenic value to the lands and waters involved in mining. It provides that no mining will be permitted within the state after July 1974 unless such mining

---

96. No. 361, [1973] S.C. Acts & Jt. Res. 637.

97. No. 146, [1973] S.C. Acts & Jt. Res. 181.

98. No. 233, [1973] S.C. Acts & Jt. Res. 266.

99. House Bill No. 1665, 100th Gen. Assem. of S.C., 1st Sess. (1973).

100. No. 302, [1973] S.C. Acts & Jt. Res. 364.

101. No. 274, [1973] S.C. Acts & Jt. Res. 314.

includes plans to reclaim the surrounding area from the effect of the mining. Such plans must be approved by the Land Resources Conservation Commission.<sup>102</sup> The act also provides that each mining operator must file an annual report on reclamation progress. Failure to proceed in accordance with the reclamation plan will carry a penalty of up to one thousand dollars per day.<sup>103</sup> The reclamation plans, as envisioned by the act, will provide for protection of adjacent surface resources, restoration of surface gradient, revegetation, rehabilitation of settling ponds, restoration of stream channels, control of contaminants, and protection of fish and animal life. Such plans will also include a time schedule for implementation.<sup>104</sup>

Another more controversial environmental issue considered in 1973 was the protection of the South Carolina coastal resources. Three bills<sup>105</sup> dealing with this subject were considered in 1973, each providing for creation of an administrative agency to establish use priorities for the South Carolina coastal region. All three bills, none of which were enacted, might be characterized as initial steps toward proper tidelands management. However, the beneficial impact of any of the three measures would be negated without well defined planning objectives and properly delineated administrative authority for implementation of those objectives. Unfortunately, the legislation considered this year was not particularly strong in these areas.

In an effort to prevent duplication of effort and promote more efficient use of financial resources, the General Assembly approved the merger of the State Board of Health and the State Pollution Control Authority.<sup>106</sup> The new agency, known as the South Carolina Department of Health and Environmental Control, came into existence July 1, 1973.

## X. MISCELLANEOUS

Several other bills presented during the first session of the one hundredth General Assembly, involving areas not previously

---

102. *Id.* at 322.

103. *Id.* at 329.

104. *Id.* at 324.

105. House Bill No. 1038, 100th Gen. Assem. of S.C., 1st Sess. (1973); House Bill No. 1237, 100th Gen. Assem. of S.C., 1st Sess. (1973); House Bill No. 2193, 100th Gen. Assem. of S.C., 1st Sess. (1973).

106. No. 390, [1973] S.C. Acts & Jt. Res. 685.

discussed in this article, were of sufficient importance to deserve mention:

An act to make a reasonable attorney's fee a part of the debt or cost for which a mechanic's lien may be filed.<sup>107</sup>

An appropriation for the fiscal year 1973-74 to employ a full-time attorney for the South Carolina Grievance Committee.<sup>108</sup>

An act to provide for penalties for habitual offenders of driving laws.<sup>109</sup>

A bill to establish uniform traffic courts in each county.<sup>110</sup>

A bill to provide immunity for newsmen from contempt citations by grand juries, courts, the General Assembly or any administrative body.<sup>111</sup>

PAUL E. VON NESSEN

---

107. No. 75, [1973] S.C. Acts & Jt. Res. 80.

108. No. 354, [1973] S.C. Acts & Jt. Res. 437.

109. No. 344, [1973] S.C. Acts & Jt. Res. 424.

110. House Bill No. 1645, 100th Gen. Assem. of S.C., 1st Sess. (1973).

111. House Bill No. 1032, 100th Gen. Assem. of S.C., 1st Sess. (1973).